

## Message Text

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17

ACTION OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 L-03 TRSE-00 AID-05 H-02

COME-00 /034 W

----- 097447

R 270520Z OCT 76

FM AMEMBASSY ABU DHABI

TO SECSTATE WASHDC 5094

INFO AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

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PASS OPIC FOR ZOLA

E.O. 11652: N/A

TAGS: BEXP, EFIN

SUBJ: DISCUSSIONS ON OPIC AGREEMENT IN UAE

REF: STATE 241688

SUMMARY: PROSPECTS FOR SIGNING THE OPIC BILATERAL AGREEMENT WITH THE UAE SEEM TO HING ON ACCEPTABILITY OF A LIMITED BILATERAL FOR CONSTRUCTION AND OTHER SERVICES. UAE, JUST AS KUWAIT, WELCOMES OPIC'S SOLUTION FOR US SERVICE INDUSTRIES TO COMPETE UNDER MIDDLE EASTERN BANK GUARANTEES; HOWEVER UAE ALSO RELUCTANT TO SIGN A TRADITIONAL BILATERAL, WHICH IS MORE ORIENTED TOWARDS COVERING EQUITY/LOAN TYPE INVESTMENTS RATHER THAN SERVICE CONTRACTS. AMBASSADOR REQUESTS THAT OPIC AND STATE CONSIDER A LIMITED BILATERAL FOR UAE IN THE FORM OF A SIMPLE EXCHANGE OF LETTERS TO BE PRESENTED TO THE MINISTER OF FOREIGN AFFAIRS, PARTICULARLY IN VIEW OF POTENTIAL DIFFICULTY IN JUSTIFYING TRADITIONAL OPIC AGREEMENT IN CAPITAL SURPLUS COUNTRY LIKE UAE. END SUMMARY.

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1. ON OCT. 24 OPIC OFFICIALS ZOLA AND BAZARIAN AND

ECON/COM OFFICER DOLAN HELD TWO HOUR ORIENTATION SESSION ON LOCAL BANK GUARANTEE AND INSURANCE SCENE WITH TARIQ SAID, GENERAL MANAGER, AND WASEF S. JABSHEH, DEPUTY GENERAL MANAGER OF ABU DHABI NATIONAL INSURANCE CO. (ADNIC). ADNIC (PREFERRED GOVERNMENT INSURANCE VEHICLE) IS FIFTY PER CENT OWNED BY GOVERNMENT. THE ADNIC REPRESENTATIVES WERE INTERESTED IN THE OPIC BANK GUARANTEE SOLUTION AND WERE ENTHUSIASTIC ABOUT ISSUING THE LOCAL BANK GUARANTEE AND PARTICIPATING AS A MEMBER OF OPIC'S RISK SHARING POOL (OIIG). ADNIC IS KEY SUPPORTER OF OPIC'S BILATERAL EFFORTS BECAUSE OF ITS STATUS AS A QUASI-GOVERNMENT ENTITY AND BECAUSE OF THE INFLUENCE OF ITS BOARD OF DIRECTORS, AMONG WHOM IS JOHN BUTTER, DIRECTOR GENERAL OF FINANCE OF THE ABU DHABI DEPARTMENT OF FINANCE AND RESPECTED ADVISOR TO THE UAE GOVERNMENT.

2. ON OCTOBER 25, BAZARIAN/DOLAN MET WITH BUTTER. BUTTER WAS RECEPTIVE TO OPIC'S BANK GUARANTY SOLUTION AND RECOGNIZED THE IMPORTANCE OF US PARTICIPATION IN UAE PROJECTS. HE WAS CONCERNED ABOUT PARA 4 OF THE DRAFT AGREEMENT BECAUSE OPIC'S SUCCESSION TO THE INVESTOR'S PROPERTY RIGHTS AFTER PAYING A CLAIM WOULD VIOLATE THE UAE'S LAW IF THESE RIGHTS INVOLVED LAND (SINCE NON-UAE CITIZENS ARE PROHIBITED FROM HOLDING TITLE TO LAND). BAZARIAN ASSURED HIM THAT DURING OPIC'S HISTORY, IT HAS NOT TAKEN TITLE TO LAND. MOREOVER, OPIC WOULD TRANSFER SUCH INTERESTS, AS LAND, TO AN ENTITY PERMITTED TO OWN LAND. BUTTER REMARKED THAT THE OPIC BILATERAL COULD NOT BE SIGNED BY A UAE MINISTER UNTIL APPROVED BY THE FEDERAL COUNCIL.

3. BAZARIAN/DOLAN MET WITH SHAIKH ZAYED'S PERSONAL FOREIGN POLICY ADVISOR, ADNAN PACHACHI, WHO WAS ALSO CONCERNED ABOUT OPIC'S RIGHT OF SUCCESSION. HE ARGUED THAT ASSISTANCE IN FINANCING OFFERED BY OPIC TO US COMPANIES WAS AN INTERNAL US MATTER. MOREOVER, WIDE RANGING AGREEMENT AS PROFFERED BY OPIC REP WOULD RESULT IN OBLIGATIONS ON PART OF UAE WITHOUT CORRESPONDINGLY GREAT ADVANTAGES. PACHACHI WAS ESPECIALLY LIMITED OFFICIAL USE

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SENSITIVE THAT SETTLEMENT OF A CLAIM BETWEEN UAEG AND US PRIVATE COMPANY COULD TURN INTO USG/UAEG IMBROGLIO. HE OBSERVED THAT TWO SOLUTIONS ARE AVAILABLE:  
(1) SCALE DOWN AGREEMENT TO SCOPE WHICH LESSENS UAE OBLIGATIONS BUT STILL PERMITS OPIC PROGRAMS TO OPERATE, OR  
(2) ALTER AGREEMENT IN MANNER SO AS TO PROTECT UAE INVESTMENTS IN US. OPIC REP POINTED OUT MUTUAL ADVANTAGES OF DRAFT AGREEMENT AS OFFERED AND PROMISED TO REFER

QUESTION OF ALTERNATIVES TO WASHINGTON.

4. SEPARATE DISCUSSION WITH DR. ADIL SHUKRI, ECONOMIC ADVISOR TO FOREIGN MINISTER, REFLECTED CAUTIOUS UAE APPROACH TO DRAFT AGREEMENT AS OFFERED. SHUKRI WAS APPREHENSIVE ABOUT APPEARANCE OF POTENTIALLY PRECEDENT SETTING AGREEMENT GIVING USG LEGAL RIGHTS SUCCEDED TO PRIVATE US COOPERATION. HE ARGUED THAT INCHOATE UAE LEGAL SYSTEM COULD BE DEFORMED BY "UNIQUE" STATUS FOR US INVESTMENT. HE ALSO POINTED OUT THAT FORMAT AND FORMULAE OF AGREEMENT DID NOT LEND THEMSELVES TO EASY EXPLANATION USUALLY NECESSARY TO CAPTURE ASSENT OF LOCAL LEADERSHIP. SHUKRI PROMISED TO REFER DRAFT TEXT OF AGREEMENT FOR COMMENT TO OTHER FOREIGN MINISTRY OFFICIALS AND TO INTERMINISTERIAL GENERAL PROJECTS COMMITTEE (MOST SOPHISTICATED BID LETTING ENTITY/ENTITIES AND PRESUMABLY GROUP MOST INTERESTED IN BID AND PERFORMANCE BOND QUESTION). HE SAID THAT HE WOULD CONTACT EMBASSY WITHIN MONTH WITH DETAILED RESPONSES. IN LEST OFFICIAL VEIN, SHUKRI SUGGESTED ALTERNATIVES OF EITHER (A) DILUTING STRENGTH OF AGREEMENT BY GOING TO EXCHANGE OF VERY SIMPLY WRITTEN LETTERS WHICH DID NOT OBLIGATE UAE FOR ANYTHING EXTRAORDINARY OR (2) BURYING OPIC AGREEMENT IN A PROFORMA BILATERAL TECHNICAL CO-OPERATION AGREEMENT IN WHICH "NOT MORE THAN ONE PARAGRAPH" REFERRED TO OPIC PROGRAMS. SHUKRI STATED THAT IF US WANTED FULL-STRENGTH AGREEMENT US WOULD HAVE TO GIVE SOMETHING TANGIBLE IN RETURN. HYPOTHETICAL BENEFITS TO UAE THROUGH COSTS LOWERED BECAUSE OF INCREASED COMPETITION WERE NOT SUFFICIENT. HE WONDERED IF US MIGHT NOT TREAT UAE INVESTMENT MORE FAVORABLY, IN TAXATION, PROTECTION FROM NATIONALIZATION, SOME GUARANTEES RELATING TO REAL ESTATE, ETC. OPIC REP POINTED OUT NON-DISCRIMINATORY US LAW AND POLICY TREATMENT OF FOREIGN INVESTORS, AND WENT ON TO LIMITED OFFICIAL USE

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SUGGEST THAT BILATERAL TAX ACCORD MIGHT BE WORTH INVESTIGATION.

5. OPIC REP MET FINALLY WITH DR. HASSAN ABBAS ZAKI, ECONOMIC ADVISOR TO UAE PRESIDENT AND DIRECTOR ABU DHABI FUND FOR ARAB ECONOMIC DEVELOPMENT WHO RECEIVED DRAFT TEXT AND IDEA OF AGREEMENT WITH SOME ENTHUSIASM. HE VOLUNTEERED TO WRITE FOREIGN MINISTER ENDORSING IDEA OF OPIC OPERATIONS. IN CONTRAST TO OTHER INTERLOCUTORS, ZAKI DID NOT CLOSELY EXAMINE TEXT OF DRAFT AGREEMENT.

6. DURING A LUNCHEON OCT 25 AT HOME OF DOLAN, THE ADNOC REPRESENTATIVES CONFIRMED TO BAZARIAN THAT THEY HAD DISCUSSED SUBJECT WITH BUTTER SUBSEQUENT TO DOLAN/BAZARIAN/BUTTER MEETING AND THAT BUTTER WAS

RECEPTIVE TO OPIC BILATERAL. TARIQ SAID INTENDS TO VISIT OPIC DURING NOVEMBER IN ORDER TO DISCUSS ADIC'S POSSIBLE PARTICIPATION IN OPIC AND TO BBUEF OPIC ON THEIR EFFORT TO SUPPORT THE BILATERAL.

7. ACTION REQUESTED: OBVIOUSLY DIFFERING VIEWPOINTS EXIST ON VALUE OPIC AGREEMENT. GREATEST CAUTION EXPRESSED ON FOREIGN POLICY SIDE AND MOST ENTHUSIASM SHOWN ON ECONOMIC SIDE OF UAEG. IN LIGHT OF THIS LESS THAN WHOLE-HEARTED RESPONSE TO PROFFERED DRAFT AGREEMENT, I SUGGEST CONSIDERATION OF OFFERING SIMPLE LIMITED AGREEMENT IN FORM OF EXCHANGE OF LETTERS WITH MFA RELATIING ONLY TO CONSTRUCTION AND OTHER SERVICES. IF THIS SOLUTION IS FEASIBLE FOR OPIC, LIMITED AGREEMENT MIGHT BE PREFERABLE ALSO FOR US TO TRADITIONAL FORMAT IN LIGHT OF CAPITAL SURPLUS IN UAE.  
DICKMAN

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## Message Attributes

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